

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

MICHAEL DENA GROGAN, #1841062	§	
VS.	§	CIVIL ACTION NO. 6:14cv297
STATE OF TEXAS	§	

ORDER OF DISMISSAL

Movant Michael Dena Grogan, an inmate confined in the Texas prison system, proceeding *pro se*, filed the above-styled and numbered lawsuit against the State of Texas. Grogan began the lawsuit by filing a document entitled, “Motion for Reversal of Mandate,” wherein she sought to obtain an order from this Court requiring the Texas Court of Criminal Appeals to permit her to finish her petition for discretionary review and to consider it. The lawsuit was construed as a petition for a writ of mandamus. The case was directly assigned to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the lawsuit should be dismissed. Grogan has filed objections.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Grogan, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections by Grogan are without merit. It is specifically noted that federal courts do not have the authority to direct state officials and their judicial officers in the performance of their duties and functions. *Moye v. Clerk*,

DeKalb County Superior Court, 474 F.2d 1275, 1276 (5th Cir. 1973); *Noble v. Cain*, 123 F. App'x 151, 152-53 (5th Cir. 2005). Moreover, a party seeking mandamus must show that no other adequate means exist to attain the requested relief and that the right to the issuance of the writ is "clear and indisputable." *In re Willy*, 831 F.2d 545, 549 (5th Cir. 1987); *Hyder v. Sanderson*, 73 F. App'x 80 (5th Cir. 2003). Since Grogan's direct appeal is over, her remedy is to seek habeas corpus relief in state court and, in necessary, in federal court. This Court lacks authority to grant the relief requested by Grogan. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of mandamus is **DENIED** and the case is **DISMISSED** with prejudice. All motions not previously ruled on are **DENIED**.

So ORDERED and SIGNED this 9th day of July, 2014.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE